

# County of Monroe

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## MEMORANDUM

TO: Board of County Commissioners

FROM: Timothy J. McGarry, AICP  
Director of Growth Management

DATE: January 31, 2005

RE: **Public Hearings on Proposed Amendments to  
Comprehensive Plan and Land Development Regulations  
to Implement Goal 105 – Tier System**

### Introduction

At its February 16, 2005, regularly scheduled meeting, the BOCC will conduct two separate public hearings continued from January 19, 2005, on proposed amendments to the Comprehensive Plan and Land Development Regulations. As done at the previous hearings, the first public hearing will consider ordinances adopting text amendments to the Comprehensive Plan and Land Development Regulations followed by a public hearing on the ordinance adopting the draft Tier Overlay District Map.

### Purpose

This memorandum is intended to facilitate the Board's consideration of the complex, set of comprehensive plan amendments and enable the Board to direct the staff to make any further revisions that are needed. Once the public comment period is over and prior to any Commission discussion on the first set of ordinances, the staff requests that staff be permitted the opportunity to discuss the issues or recommendations identified this memorandum and receive appropriate direction from the BOCC. Specific BOCC action or direction on each issue or recommendation is shown in **bold**

## **Issues and Recommendations for Further Consideration**

Issues and staff recommendations regarding further revisions to the draft amendments and Overlay Tier District Map warranting some further consideration by the Board are organized into the following three sections:

- o Minor editorial revisions identified by staff to correct typographical mistakes or omissions in the proposed text or the Overlay District Map;
- o Issues identified and/or recommended by staff for further consideration contained in the Planning Director's memorandum dated December 1, 2004; and
- o Changes recommended by staff in response to public input at the December 15 public hearing.

### **Minor Editorial Revisions**

In further review of the draft ordinances, the staff has identified two needed changes, which will be incorporated into the final draft ordinances:

1. ROGO Ordinance, Section 9.5-122.1(g)(2). "Section 9.5-122(c)" is incorrectly referenced in this subparagraph; the reference should be changed to "Section 9.5-122 (b)".
2. Tier System Overlay District Ordinance. The ordinance needs to specify that Ocean Reef is excluded from a tier designation; Section 9.5-256 (a) should be amended to read as follows (new language underlined):

“(a) *Purpose:* The purpose of this Tier Overlay District is to designate geographical areas outside of mainland Monroe County, excluding the Ocean Reef development, into one of three tiers to assign ROGO and NROGO points, determine the amount of clearing of upland native vegetation that may be permitted, and prioritize lands for public acquisition. The Tier boundaries are to be depicted on the Tier Overlay District Map.
3. Tier Overlay District Map. The Tier Overlay District Map does not show the northern portions of Key Largo including Ocean Reef; the Tier Overlay District Map needs to be revised to include Map #16 that includes this missing portion of Monroe County. The area depicted on Map #16 is all designated as Tier I except for the Ocean Reef, which is depicted with no tier designation.

**[BOCC approval of three minor revisions above requested.]**

### **Issues Identified by Staff for Further Consideration**

In her December memorandum, the Planning Director identified several issues related to the proposed amendments warranting further consideration by the BOCC, including a request for the Board to decide whether or not it wishes to consider the proposed “Lottery” option for ROGO. No direction was given to staff on any of these issues at the December public hearing.

1. Limitations on Number of Quarterly Administrative Relief Awards. The proposed amendments eliminate perseverance points for all new applications entering the ROGO system. Therefore, at the end of four years, applicants will be expecting to either receive a permit or an offer to purchase their lot depending upon the Tier designation and environmental quality of the lot in question.

The staff is concerned that in the future that the number of applications eligible to receive a permit under Administrative Relief may greatly reduce the number of allocations available in the system, which in turn may adversely affect the County’s legal exposure under takings claims. *To address this potential problem, the staff recommends amending the draft ROGO Land Development Regulations ordinance to limit the number of administrative relief allocations that can be awarded in any quarter to no more than 50% of the quarterly allocation; and, amending the draft ROGO Comprehensive Plan and Land Development Regulations ordinances to require that the “preferred relief” option for any lot scoring less than 30 points, outside Big Pine Key and No Name Key, and less than 20 points on Big Pine Key and No Name Key, will be an offer to purchase. [BOCC direction requested.]*

2. Payment into a Land Acquisition Fund for Points. A purchase of points option was considered and not recommended by the Planning Commission. Under this proposed option, up to three points could be purchased for a fee approximately equal to the cost per point of purchasing and dedicating a ROGO lot. The Planning Commission was concerned that by changing the system there would be less conservation lots purchased; however, the staff believes that this issue can be mitigated by requiring the funds only be used for acquisition of conservation lands. Furthermore, this alternative may help to dampen the rising costs of lots eligible for dedication under ROGO. *The staff recommends amending the draft ROGO Comprehensive Plan and Land Development Regulations ordinances to provide the opportunity for up to three points to be awarded under ROGO with monetary payment to the County’s land acquisition fund for the purchase of lands for conservation; and to annually establish the monetary value of each point based upon the average ad valorem valuation of all vacant privately-owned IS/URM zoned platted lots on the current Monroe County Real Property Tax Roll. [BOCC direction requested.]*

3. Hybrid [Lottery] ROGO System. An alternative ROGO system, which proposes that the market rate housing share be allocated through both a competitive system and a lottery system, was reviewed and not recommended by the Planning Commission. The predominate majority of public testimony received at the PC public hearings was not supportive of the proposal. Although the staff has made no

recommendation on the proposal, it is included in the BOCC workbook to provide an opportunity for the Board's consideration should it so desire.

Under this proposal, approximately 20% of the market rate housing would be available through the lottery and the remainder available for those applicants who wish to have the assurance gained from the competitive system. The applicant determines if he wants to compete or enter the lottery. A threshold of 30 points is required to be eligible to enter the lottery. This dual system would provide a means for those who cannot afford to purchase lots to donate for points to have a chance of receiving an allocation. After four years applicants that have not received an allocation can apply for Administrative Relief. *The staff recommends that the BOCC make a decision on whether or not it is interested in this approach so that the staff can prepare the necessary amendments to the draft ROGO Comprehensive Plan and Land Development Regulations ordinances for consideration by the BOCC at the February public hearing. [BOCC direction requested.]*

### **Recommended Changes In Response to Public Input**

Based on its review of the public written and oral comments from the initial public hearing in December, the staff is making four additional recommendations for changes that warrant consideration by the BOCC.

1. Existing Conditions Report. The Existing Conditions Report required by Section 9.5-336 (see draft Environmental Standards ordinance) should include animals observed on site. *The staff believes that this requirement would be beneficial and recommends amending Section 9.5-336 to require that animal species observed on site be identified in the report. [BOCC direction requested.]*
2. Frequency of Amendments to Tier Overlay District Map. The proposed language of Section 9.5-256 (see draft Tier Overlay District ordinance) does not place any limits on the number of times during the year amendments to the Tier Overlay District Map may be considered. The staff believes this suggestion on limiting the number of times per year amendments may be considered would reduce the work load on staff and ensure a more comprehensive, rather than piecemeal review of each request. *The staff recommends that the draft ordinance be amended to limit consideration of Tier Overlay District Map amendments to one time per calendar year. [BOCC direction requested.]*
3. ROGO Points for Tier II Properties. Concern was raised that the difference in points between Tier II and Tier III is out of proportion to the differences in the two designations of property and would significantly increase costs to develop Tier II lots. Although, Tier II lots are not preferred for development, the staff believes a 5 point differential would be sufficient and made that recommendation to the Planning Commission. *The staff recommends amending the draft ROGO Comprehensive Plan and Land Development Regulations ordinances to increase the proposed points for Tier II designated properties (outside of Big Pine Key and*

*No Name Key) from 20 to 25 points. [BOCC direction requested.]*

4. Borrowing Future Allocations for Affordable Housing. A suggestion was made to allow borrowing up to 10 years worth of future affordable housing allocations and to make these allocations available all at once. The proposed regulations allow borrowing up to 20 percent of the future quarterly allocations for multi-unit projects with a limit of five years. The staff believes that the suggestion is too broad in terms of the length of the borrowing period, but the concept has some merit in that it would allow the County to provide a pool of ready affordable housing allocations. *Therefore, the staff recommends amending the draft ROGO Land Development Regulations to explicitly allow the BOCC upon recommendation of the Planning Commission to borrow and make available up to five years worth of affordable housing allocations at a time. [BOCC direction requested.]*
5. Other Recommendations (?) [BOCC direction requested as appropriate.]